

REMARKS

Claims 1-4 are pending in the application. In the Office action dated July 17, 2007, claims 1-4 were rejected under 35 U.S.C. § 102. In view of the following remarks, Applicants request reconsideration of the rejected claims under 37 C.F.R. § 1.111.

Priority Claim

The Examiner asserts that the instant application is not entitled to the priority date of January 8, 2004, because the foreign priority claim was not filed during the time period set forth in 37 C.F.R. § 1.55(a)(1). Applicants respectfully disagree, and suggest that a proper priority claim has been made, and that they are entitled to the benefit of the January 8, 2004 priority date.

As set out at MPEP § 1893.03(c):

"Pursuant to 35 U.S.C. § 365(b) a U.S. national stage application shall be entitled to a right of priority based on a prior foreign application or international application designating at least one country other than the United States in accordance with the conditions and requirements of 35 U.S.C. § 119(a) and the treaty and the PCT regulations. See in particular PCT Article 8 and PCT Rules 4.10 and 26bis. To obtain priority in the U.S. national stage application to such applications, the priority must have been timely claimed in the international stage of the international application. See 37 CFR § 1.55(a)(1)(ii). If priority was properly claimed in the international stage of the international application, the claim for priority is acknowledged and the national stage application file is checked to see if the file contains a copy of the certified copy of the priority document submitted to the International Bureau." (emphasis added).

In this instance, the priority claim was properly made during the international phase of the application. In particular, as shown in the attached Notification Concerning Submission of Transmittal of Priority Document, the certified copy of the priority document (JP 2004-003347) was provided to the International Bureau. A review of the

PAIR database shows that the certified copy of the priority document is present in the file for the instant application (see attached).

Similarly, the claimed priority date of January 8, 2004 is referenced on the Notification, as well as on International Publication no. WO 2005/067053, corresponding to the international phase of the instant application. Having properly made the priority claim to JP 2004-003347, Applicant need not make the priority claim again.

Applicants suggest that the foreign priority claim was perfected according to PCT Rule 4.10, and that priority claim is reflected in the US P.T.O. PAIR database, which shows a priority claim to JP 2004-003347 and a Priority Date of January 8, 2004 for the instant application.

In view of the above remarks, Applicants suggest that the foreign priority claim has been properly established.

Rejections under 35 U.S.C. § 103

Claims 1-4 are rejected under 35 U.S.C. § 102(b) as being anticipated by Murakami et al. (U.S. Publication no. 2006/0177991). Applicants traverse the rejection.

As discussed above, the present application has a 37 C.F.R. § 371(c) date of July 7, 2006, an international filing date of December 28, 2004, and a priority date of January 8, 2004.

The cited Murakami et al. reference has a publication date of August 10, 2006, and a filing date of February 6, 2006.

As set out at MPEP § 1893.03(b):

"An international application designating the U.S. has two stages (international and national) with the filing date being the same in both stages. Often the date of entry into the national stage is confused with the filing date. It should be borne in

mind that the filing date of the international stage application is also the filing date for the national stage application" (emphasis added).

As the present application has a filing date of December 28, 2004, Applicants suggest that the Murakami et al. reference is unavailable as a reference under either 35 U.S.C. § 102(b), or 35 U.S.C. § 102(e).

In view of the above remarks, Applicants respectfully request the withdrawal of the rejections of claims 1-4 under 35 U.S.C. § 102.

Applicants believe that this application is now in condition for allowance. Accordingly, Applicants respectfully request that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned agent of record.

CERTIFICATE OF E-FILING

I hereby certify that this correspondence is being transmitted electronically via the United States Patent and Trademark Office's EFS-Web System on October 17, 2007.

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Respectfully submitted,

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